

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

| | | |
|-----------------------|---|-------------------------------|
| MICHAEL KOZIARA, |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | Case No. 3:13-cv-00834 |
| |) | Judge James D. Peterson |
| BNSF RAILWAY COMPANY, |) | Mag. Judge Stephen L. Crocker |
| |) | |
| Defendant. |) | |

**DEFENDANT BNSF RAILWAY CO.'s
AMENDED TRIAL EXHIBIT LIST¹**

Dated: February 27, 2015

Respectfully submitted,

s/Bruce J. Douglas

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¹ This Trial Exhibit List is submitted utilizing the form indicated in this Court's website.

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|----------------|--|
| EXHIBIT (S) OF | |
| DEFENDANT | Michael Koziara V. Case No. 3:13-cv-00834 BNSF Railway Company |

| Date | Identification | | Description | Offers, Objections, Rulings, Exceptions |
|------|----------------|---------|--|---|
| | No. | Witness | | |
| | 501 | | Michael Koziara Personnel File | |
| | 502 | | Michael Koziara Taxes & Fringe Benefits 2003-2012 | |
| | 503 | | Michael Koziara Time History 9/3/09-9/16/10 | |
| | 504 | | Michael Koziara's Time History 9/1/10-9/12/10 | |
| | 505 | | Michael Koziara Employee Monthly Earning History | |
| | 506 | | Michael Koziara's 2009 W-2 | |
| | 507 | | Koziara Employee Transcript | |
| | 508 | | Michael Koziara's Injury/Illness Record | |
| | 510 | | Michael Koziara Labor Relations File | |
| | 511 | | National Railroad Adjustment Board Award No. 41869 (suspension) | |
| | 512 | | National Railroad Adjustment Board Award No. 41870 (dismissal) | |
| | 513 | | Excerpt from January 2011 PEPA Board re: Michael Koziara | |
| | 514 | | BNSF PEPA dated July 1, 2000 | |
| | 515 | | FRA Guide for Preparing Accident/Incident Reports | |
| | 516 | | BNSF Records and Information Retention Policy June 2009-May 2010 | |
| | 518 | | BNSF 2010 Code of Conduct | |

| Date | Identification | | Description | Offers, Objections, Rulings, Exceptions |
|------|----------------|---------|--|--|
| | No. | Witness | | |
| | 519 | | BNSF Information Security Policy dated 12/6/10 | |
| | 520 | | BNSF Internal Control Plan dated 10/29/09 | |
| | 521 | | BNSF Maintenance of Way Operating Rules Dec. 2, 2009 (revisions through 8/1/12) | |
| | 522 | | BNSF Maintenance of Way Operating Rules Dec. 2, 2009 (revised 10/1/10) | |
| | 523 | | BNSF Maintenance of Way Safety Rules Oct. 30, 2005 (revisions up to 4/28/09) | |
| | 525 | | BNSF Maintenance of Way Safety Rules Oct. 30, 2005 (revisions through 4/22/10) | |
| | 526 | | Chicago Division 2010 Safety Action Plan or portions thereof | |
| | 527 | | BNSF Employee Safety Rules revisions up to 4/28/09 | |
| | 528 | | BNSF TY&E Rules revised through 5/27/09 | |
| | 529 | | BNSF Mechanical Safety Rules dated 6/24/09 | |
| | 530 | | General Engineering Instructions Part G | |
| | 531 | | BNSF General Code of Operating Rules effective Apr. 7, 2010 w/ amendments through Apr. 1, 2012 | |
| | 532 | | EEO is The Law policy poster | |
| | 533 | | EEO policy revised 4/1/09 | |
| | 535 | | My BNSF HR Navigator website page | |
| | 536 | | Welcome to the BNSF Hotline page | |
| | 537 | | 7/31/14 email re: Code of Conduct Certification Questions on the Intranet | |
| | 538 | | BNSF Maintenance of Way Safety Rules excerpts | |
| | 539 | | OSHA Fact Sheet re: Railroad Whistleblower | |
| | 540 | | Labor Relations Website Page | |
| | 541 | | Insights Newsletter dated January 18, 2011 | |

| Date | Identification | | Description | Offers, Objections, Rulings, Exceptions |
|------|----------------|---------|---|--|
| | No. | Witness | | |
| | 542 | | Insights Newsletter dated Feb. 28, 2011 | |
| | 543 | | General Track Bulletin No. 16989 dated 8/30/10 | |
| | 544 | | General Track Bulletin No. 21095 dated 8/31/10 | |
| | 545 | | General Track Bulletin No. 25032 dated 9/1/10 | |
| | 546 | | General Track Bulletin No. 29290 dated 9/2/10 | |
| | 547 | | BMW Local Collective Bargaining Agreement effective Sept. 1982, updated Dec. 2002 | |
| | 548 | | 2007 BMW National Collective Bargaining Agreement | |
| | 549 | | Michael Koziara's Initial Injury Report (Chicago Division East) re: 9/13/10 incident | |
| | 550 | | Koziara Personal Injury Report dated 9/14/10 (2 pages & signed) | |
| | 551 | | BNSF First Report of an on Duty Injury or Illness & Outcome of Initial Medical Triage dated 9/15/10 | |
| | 552 | | 9/15/10-9/17/10 internal notes re: Michael Koziara's injury | |
| | 553 | | Michael Koziara BNSF Personal Injury Report dated 9/20/10 (FRA Form F6180.98) | |
| | 554 | | 9/20/10 letter from Michael Horton to Michael Koziara | |
| | 555 | | 9/23/10 Investigation transcript re: injury (w/ cover page) | |
| | 556 | | 9/16/10 Notice of Investigation Hearing (Ex. 1) | |
| | 557 | | BNSF Employee Personal Injury/Occupational Illness Report-Fractured Tibia (Ex. 2) | |
| | 558 | | Michael Koziara statement re: Injury (Ex. 3) | |
| | 559 | | Greg Zielke statement re: injury (Ex. 4) | |
| | 560 | | Brad Underhill witness statement re: Injury (9.20.11) | |

| Date | Identification | | Description | Offers, Objections, Rulings, Exceptions |
|------|----------------|---------|--|--|
| | No. | Witness | | |
| | 561 | | Al Mitchell witness statement re: Injury (9.16.10?) | |
| | 562 | | Michael Koziara Level S 30 Day Suspension dated 10/18/10 re: injury, failure to be alert & attentive | |
| | 563 | | 9/27/10 email from Andrea Trepanier to Kevin Wilde re: Michael Koziara Injury's on 9/9/10 | |
| | 564 | | BNSF Reenactment PowerPoint Slide | |
| | 565 | | Excerpts from Michael Veitz's 2010 Day Planner | |
| | 566 | | Michael Koziara's Proof of Disability letter from 9/13/10 through 1/17/11 dated 12/29/10 | |
| | 567 | | BNSF 2010 Injury & Discipline Spreadsheet and 5 others suspension letters | |
| | 568 | | Michael Koziara's 9/16/10 Authorization for Release of Medical records to BNSF | |
| | 569 | | Michael Koziara's Medical Assessment by Railroad Retirement Board | |
| | 570 | | Michael Koziara's Gundersen Lutheran Clinic medical records | |
| | 571 | | Michael Koziara's Gundersen Lutheran Clinic FCE records | |
| | 572 | | Michael Koziara's Opus Medical File | |
| | 573 | | Michael Koziara's Breidenbach Family & Sports Clinic medical records | |
| | 574 | | Michael Koziara's Elite Chiropractic medical records | |
| | 575 | | Michael Koziara's Franciscan Skemp Health System medical records | |
| | 576 | | Printout showing Michael Koziara's 9/9/10 fractured fibula | |
| | 577 | | Boom Truck photo 1 | |
| | 578 | | Boom Truck photo 2 | |
| | 579 | | Boom Truck photo 3 | |
| | 580 | | Boom Truck photo 4 | |

| Date | Identification | | Description | Offers, Objections, Rulings, Exceptions |
|------|----------------|---------|--|--|
| | No. | Witness | | |
| | 581 | | Boom Truck photo 5 | |
| | 582 | | Boom Truck photo 6 | |
| | 583 | | Crossing Photo 1 | |
| | 584 | | Crossing Photo 2 | |
| | 585 | | Crossing Photo 3 | |
| | 586 | | Crossing Photo 4 | |
| | 587 | | Crossing Photo 5 | |
| | 588 | | Crossing Photo 6 | |
| | 589 | | Crossing Photo 7 | |
| | 590 | | End Loader Photo 1 | |
| | 591 | | End Loader Photo 2 | |
| | 592 | | End Loader Photo 3 | |
| | 593 | | End Loader Photo 4 | |
| | 594 | | End Loader Photo 5 | |
| | 595 | | End Loader Photo 6 | |
| | 596 | | Torch on boom truck | |
| | 597 | | Rail grinder | |
| | 598 | | Rail grinder | |
| | 599 | | Rail grinder | |
| | 600 | | Plank lifter | |
| | 601 | | Hydraulic Gun | |
| | 602 | | 6/9/10 memo from Mike Horton to Jeff Johnson re: BNSF Photo Log | |
| | 603 | | 10/18/2010 Investigative Transcript re: theft (w/ cover page) | |
| | 604 | | 10/5/10 Notice of Investigation re: theft (Ex. 1) | |
| | 605 | | 10/4/10 A.M. Employee statements re: ties (Ex. 4a - 4d) | |
| | 606 | | BNSF Police Report | |
| | 607 | | Certified copy of Buffalo County Sheriff's report | |
| | 608 | | BNSF Sale Logs/Sales Awards 2008-2013 | |
| | 609 | | Personal Sale Agreement between BNSF and Pioneer Sand Co., Inc. dated 1/4/10 | |
| | 610 | | Personal Property Removal Agreement between BNSF and Pioneer Sand Co., Inc. dated 1/4/10 | |
| | 611 | | Michael Koziara Dismissal letter dated 11/9/10 | |

| Date | Identification | | Description | Offers, Objections, Rulings, Exceptions |
|------|----------------|---------|---|--|
| | No. | Witness | | |
| | 612 | | 11/9/10 letter from BMWED to Rob Reilly re: Appeal of Level S Suspension | |
| | 613 | | 12/1/10 letter from BMWED to Rob Reilly re: Appeal of Dismissal | |
| | 614 | | 12/1/10 email from Daryl Litton to Kevin Wilde re: Michael Koziara's dismissal | |
| | 615 | | 1/11/11 letter from Matthew Igoe in reply to the 12/1/10 sent to Rob Reilly re: Appeal of Dismissal | |
| | 616 | | 1/13/11 Reply of Matthew Igoe re: Appeal of Level S Suspension | |
| | 617 | | 1/28/11 letter from BMWED Chairman to William Osborn re: Appeal of Level S Suspension | |
| | 618 | | 1/26/11 letter from BMWED Chairman to Osborn re: Appeal of Dismissal | |
| | 619 | | 3/24/11 Reply of BNSF General Counsel William Osborn to Dennis Craft's 1/26/11 letter re: Dismissal | |
| | 620 | | 3/24/11 Reply of William Osborn to BMWED's 1/28/11 letter re: Level S Suspension | |
| | 621 | | D. B. Dismissal dated 2/28/12 | |
| | 622 | | J. C. Suspension dated 2/3/11 | |
| | 623 | | Z. H. Dismissal dated 6/11/94 | |
| | 624 | | K. H. Dismissal dated 2/4/10 | |
| | 625 | | C. J. Dismissal dated 7/1/10 | |
| | 626 | | R. J. Dismissal dated 5/10/12 | |
| | 627 | | F. K. Notice of Hearing dated 11/10/11 | |
| | 628 | | F. K. Postponement dated 11/15/11 | |
| | 629 | | F. K. Postponement dated 11/22/11 | |
| | 630 | | F. K. Resignation dated 12/14/11 | |
| | 631 | | F. K. Dismissal dated 1/10/12 | |
| | 632 | | H. L. Dismissal dated 6/4/10 | |
| | 633 | | G. M. Dismissal dated 1/25/10 | |
| | 634 | | R. M. Dismissal dated 5/19/11 | |
| | 635 | | M. M. Dismissal dated 4/8/10 | |
| | 636 | | C. P. Dismissal dated 5/20/13 | |
| | 637 | | R. S. Dismissal dated 2/13/12 | |

| Date | Identification | | Description | Offers, Objections, Rulings, Exceptions |
|------|----------------|---------|--|---|
| | No. | Witness | | |
| | 638 | | M. S. Dismissal dated 9/19/12 | |
| | 639 | | J. S. Dismissal dated 3/26/12 | |
| | 640 | | R. V. Dismissal dated 12/20/12 | |
| | 641 | | T. V. Dismissal dated 4/27/10 | |
| | 642 | | R. W. Dismissal dated 4/23/10 | |
| | 643 | | Michael Koziara's response to Interrogatories in Administrative Law Judge proceeding | |
| | 644 | | OSHA Dismissal Letter/Secretary's Findings dated 1/4/13 | |
| | 645 | | OSHA Complaint dated 4/15/11 | |
| | 646 | | Railroad Retirement Board Documents | |
| | 647 | | All documents identified by Plaintiff in his Rule 26(a)(3) Disclosures | |
| | 648 | | All documents identified in Plaintiff's Trial Exhibit List | |
| | 649 | | Moody's narratives regarding investigation (Ex. 2A – 2E) | |
| | 650 | | 9/3/10 BNSF Police Report (Ex. 3A – 3F) | |
| | 651 | | BMWED Article/Journal | |
| | 652 | | Release of claim and indemnity agreement | |
| | 653 | | BNSF Police Department – Wire Theft Information Bulletin | |
| | 654 | | 1/7/09 letter from CEO to all BNSF Employees | |
| | 655 | | 5/14/10 letter from CEO to all BNSF Employees | |
| | 656 | | BNSF Railway Publication (Summer/Fall 2013) | |
| | 657 | | Engineering Newsletter No. 2010-41 | |

BNSF reserves the right to supplement this list and to utilize any documents contained on Plaintiff's exhibit list or any document produced by a party in discovery during the trial of this matter. BNSF further reserves the right to utilize documents for the purposes of impeachment. Notwithstanding any Motion in Limine filed by BNSF, it does not waive the use of any such

documents during the trial of this matter, depending on the outcome of the Court's ruling on such Motions.

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